

Mary Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station, 2nd Floor  
Boston, MA 02110

March 18, 2004

RE: Western Massachusetts Electric Company, D.T.E. 03-34

Dear Secretary Cottrell:

On March 10, 2004, the Western Massachusetts Electric Company (“WMECo” or “Company”) filed its initial brief in support of the Company’s amended reconciliation filing for 2002 under the Restructuring Act of 1997 (the “Act”). Pursuant to the procedural schedule established by the hearing officer, the Attorney General submits this letter to the Department of Telecommunications and Energy (“Department”) as his reply brief.

WMECo agrees with the Attorney General that the only remaining issues to be addressed by the Department are the return of the over recovery to customers and the compounding of carrying charges on the over recovery.

**I. Return Of The Over-Recovery.**

As described in the Attorney General’s Initial Brief, over-recoveries of the transition charge should be applied to stranded assets that are earning a return at the overall weighted cost of capital, e.g. Millstone 2 fixed costs. This methodology will reduce overall transition costs for customers. To the extent that there are no assets remaining that are earning that return, the balance of the over-recovery should be flowed back to customers immediately, thereby reducing rates.

WMECo’s position is that “[t]he Department should explicitly adopt the principle that accelerated amortization is applicable for all transition costs, both those earning a return and those not earning a return.” Co. Br., p. 9. In its brief, the Company argues that “section 1G(e) of Chapter 164 of the General Laws, added by the Electric Utility Restructuring Act of 1997, squarely addresses the issue of the accelerated amortization of transition costs.” Co. Br., p. 7. The section of the Act cited by the Company, however, contains a restriction to then “current rates” and also ends with the modifying clause focusing the subject matter of the sentence on “rates in effect as of December 31,

1997.” Thus, section of the Act relied upon by WMECo does not support the Company’s position for a 2002 reconciliation.<sup>1</sup>

The Company also states that the:

transition charge approved by the Department in D.T.E. 01-101 allowed the collection of a larger sum than estimated when the amortization of these costs was originally scheduled. Tr., p. 44. This is a positive development and does not mean that customers are being overcharged.<sup>2</sup>

Co. Br., p. 7. The Attorney General maintains that when charges exceed costs, a utility over-charges customers by definition.

The Attorney General notes that the Company has not disputed his arguments that applying the over-recovery to assets not earning a return would deprive customers of the full total value of the accelerated pre-payments. The Company has cited nothing in the Act that authorizes the Department to allow the Company to over-collect transition charges from customers and then to keep a part that over-collection for itself, which is in essence what WMECo proposes. The Company seeks to put itself in a better position than if it had not over-charged customers.<sup>3</sup>

The high cost of energy is one of the critical economic issues confronting the citizens of the Commonwealth. Given the current economic climate, WMECo should not be allowed to manipulate the transition charge in order obtain a windfall. “While the Act may allow full recovery of regulatory assets, this provision is not an opportunity for a company to experience a windfall nor is it intended to supplant previous Department orders.” *Cambridge Electric Light Company/Commonwealth Electric Company*, D.T.E. 99-90-C, p. 14 (2001).<sup>4</sup> Unless the Company can establish that accelerated recovery of transition charges will produce actual customer savings, by the avoidance of carrying charges or some other charge, WMECo’s customers should not be

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<sup>1</sup> The sentence reads in full: “[a]mortization of transition cost recovery may be accelerated relative to recovery of such costs assumed in current rates, but in no case shall amortization result in an increase in rates for any class of customers of an electric company over rates in effect as of December 31, 1997.” G. L. c. 164, § 1(G)(e).

<sup>2</sup> Compare G. L. c. 164, § 1(G)(a)(2)( requiring refunds if over-collection of securitized costs).

<sup>3</sup> This over-collection is not a one time occurrence. WMECo projects an over-recovery of \$25 million in 2003.

<sup>4</sup> WMECo seeks permission to do indirectly what the Cambridge and Commonwealth Companies sought to do directly in D.T.E. 99-90-C. The Department disallowed a return on WMECo’s unrecovered Millstone 1 plant balance because of its imprudence. See D.T.E. 97-120, pp. 25-31. WMECo has amortized the plant balance over a 12 year period. To issue an order in this proceeding that could allow accelerated recovery of this unamortized balance would defeat the Department’s order in D.T.E. 97-120.

compelled to shoulder additional financial burdens. The Company's plan fails to hold customers harmless from the over-charges, and the Department should reject it contrary to the best interests of customers.

## **II. Calculation Of Carrying Charges On Transition Charge Over-Recovery.**

The Department, in determining the appropriate transition charge in this case, should treat the over-recovery of the transition amounts in the same manner as other transition charge balances and include the cumulative balance when calculating these carrying charges. In response, the Company argues that its method of calculating carrying costs is "consistent with that approved by the Department in D.T.E. 00-33 and D.T.E. 01-36/02-20." Co. Br., p. 4. The Company, however, has not provided any specific citation to support its position because previous Department orders do not specifically address the compounding of carrying charges on a transition charge over-recovery. It would be entirely appropriate for the Department to address the issue in this proceeding since the amounts of the over-recovery are now material. The amounts involved in prior transition filings were relatively small, especially in light of the main issues addressed in those reconciliations. "The fact that an overrecovery went unrecognized by earlier Commissions does not mean that the present Commission is powerless to correct an injustice to ratepayers - especially where it is perpetrated through, and correctable by, a reconciling mechanism." *Fitchburg Gas and Electric Light Company*, D.T.E. 99-66-A, p. 24 (2001).

In conclusion, the Department should adopt the recommendations made by the Attorney General as in the best interests of consumers.

Respectfully submitted,

Alexander J. Cochis  
Assistant Attorney General

cc: Service list